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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,504	01/30/2002	Lorraine M. Martinez	261/151	1829
30452	7590	07/02/2004	EXAMINER	
EDWARDS LIFESCIENCES CORPORATION			WEBB, SARAH K	
ONE EDWARDS WAY			ART UNIT	
IRVINE, CA 92614			PAPER NUMBER	
			3731	

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/066,504

Applicant(s)

MARTINEZ ET AL.

Examiner

Sarah K Webb

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/5/02.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,910,154 (Tsugita et al.).

Tsugita discloses a device in Figure 9 that includes first and second filters (92) mounted on an elongate wire (40) and a sheath (32). The sheath (32) is capable of deploying the filters (92) independently and is removed from the filters by being moved proximally. See column 13, lines 10-41).

2. Claims 11, 12, 14, 15, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,485,502 (Don Michael et al.).

Don Michael discloses a device in Figure 4B that includes first and second expandable filters (4, 14) mounted on an elongate wire (2). The device includes a first sheath (1) for deploying the first filter (Figure 1) and a second sheath (10) for deploying the second filter independently from the first (Figure 3). The distal end of the first filter (4) is bonded to the wire (2) (column 4, line 16) while the proximal end of this filter is expandable.

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Figure 5 illustrates the detailed structure of the filter elements (4,14). Don Michael explains that both filters (4,14) include a plurality of struts with a mesh bonded to the struts (column 6, line 51 through column 7, line 19).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsugita in view of Don Michael.

Tsugita fails to form the filters with a structure as outlined in claims 15-17. Both the proximal and distal ends of both filters are attached to the wire. The structure of the Don Michael filters, as explained above, meets the limitations of claims 15-17. Don Michael teaches that the arrangement in Figure 4B aids in tortuous, long segments of arteries (column 6, line 34). The most distal filter has the distal end attached to a wire while the proximal end expands outwardly from the wire. The proximal filter has the proximal end attached to the wire while the distal end expands. Since both devices include two filter elements deployed in the vascular system by a sheath, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the filters of Don Michael for the filters of Tsugita, as Don Michael teaches that the arrangement of Figure 4B is advantageous for long, tortuous vessels.

**Conclusion**

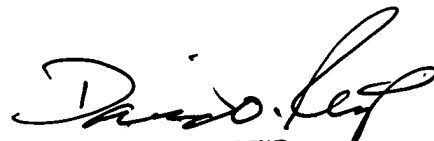
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent No. 6,605,102 (Mazzochi et al.) discloses a device in Figures 13-15 that includes a distal filter that opens proximally and a proximal filter that opens distally.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah K Webb whose telephone number is (703) 605-1176. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, McDermott or Shaver can be reached on (703) 308-0858. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SKW  
06/22/2004



DAVID O. REIP  
PRIMARY EXAMINER